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EXAMINER
ARAQUE JR, GERARDO

ART UNIT	PAPER NUMBER
3689	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptoboca@fggbb.com

	Application No.	Applicant(s)
Office Action Summary	10/643,730	NARAYANASWAMI, CHANDRASEKHAR
	Examiner	**Art Unit**
	Gerardo Araque Jr.	3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>16 March 2009</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,2,4-9,11-16,18 and 19</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,2,4-9,11-16,18 and 19</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2.   **Claims 1, 2, and 4 – 7** are rejected under 35 U.S.C. 101. Based on Supreme Court precedent and recent Federal Circuit decisions, the Office's guidance to an examiner is that a § 101 process must (1) be tied to a particular machine or apparatus or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780, 787-88 (1876).

To qualify as a § 101 statutory process, the claim should recite the particular machine or apparatus to which it is tied, for example by identifying the machine or apparatus that accomplishes the method steps, or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

There are two corollaries to the machine-or-transformation test. First, a mere field-of-use limitation is generally insufficient to render an otherwise ineligible method claim patent-eligible. This means the machine or transformation must impose meaningful limits on the method claim's scope to pass the test. Second, insignificant extra-solution activity will not transform an unpatentable principle into a patentable process. This means reciting a specific machine or a particular transformation of a

specific article in an insignificant step, such as data gathering or outputting, is not sufficient to pass the test.

Here, applicant's method steps fail the first prong of the new test because the claimed invention fails to set forth a particular machine that is specifically configured/programmed to carry out the claimed invention. Specifically, the Examiner asserts that the current claim language can be interpreted that the user, not the apparatus, is performing the claimed invention. Although, a computer system is disclosed it is being interpreted that the device is nothing more than an insignificant extra solution activity since it is being understood that the user, through the use of the device, is performing many, if not all, of the disclosed steps of the method.

Specifically, the applicant has disclosed a receiving and sending step by at least a first computer system. However, the Examiner asserts that mere data gathering and transmission is considered to be an insignificant extra solution activity. The Examiner notes that receiving and sending of data does not require a particular machine in that any computer system is fully capable to receiving and sending data. In other words, receiving and sending data is a basic computer function that any computer performs whenever it is used.

Regarding the steps in which the applicant discloses initiating and determining by at least a first computer, the Examiner asserts that in the broadest reasonable interpretation that a user is performing these steps. That is to say, it is being understood that a user is initiating and determining the claimed steps by using a computer. As a result, it is asserted that the computer is considered to also be an

insignificant extra solution activity in these steps because in the broadest reasonable

interpretation the computer is not specifically programmed to perform these steps, i.e.

the first computer is not a particular machine. Unless the steps disclose, "...at least a

first computer system initiating/determining..." it will be understood that it is the user is

performing the claimed limitations and that the computer is only being used for mere

data gathering in that the computer is receiving input based on the results of the

initiating/determining steps performed by the user.

Further, applicant's method steps fail the second prong of the test because there

is no transformation of the data. It is asserted that the data has not been transformed

into another state or into another object.

The applicant is reminded that:

"Purported transformation or manipulations simply of public or private legal
obligations or relationships, business risks, or other such abstractions
cannot meet the test because they are not physical objects or substances,
and they are not representative of physical objects or substances.
(In re Bernard L. Bilski and Rand A. Warsaw Page 28)"

Moreover, the "transformation must be central to the purpose of the claimed

process.

(In re Bernard L. Bilski and Rand A. Warsaw Page 28)"

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   **Claims 1, 2, 4 – 9, 11 – 16, and 18 – 20** are rejected under 35 U.S.C. 103(a) as

being unpatentable over **McClung, III (US Patent 7,107,225 B1)** in view of **Thakur et**

al. (US PGPub 2002/0194069 A1).

5.   In regards to **claims 1, 8, and 15, McClung** discloses a method for offering

purchase price protection for a product and/or service, the method comprising the steps

of:

        receiving, by <u>at least a first computer system associated with</u> a first web site,

information directly from a user, the information being entered by the user at the first

web site via a user interface at the first website, wherein the information is associated

with a configuration of a product and/or service that was purchased by the user from a

second web site, **(Claim 15)** <u>associated with at least a second computer system,</u>

different from the first web site, wherein the information includes a total purchase price

of the product and/or service, and wherein the vendor offers purchase price protection

for the purchased configuration of the product and/or service, wherein the user also

enters a type of price protection offered by the second website, and wherein the user

submits the information to the first web site by selecting a button on the user interface

(Col. 2 Lines 14 – 27, 53 – 56; Col. 4 Lines 8 – 30; Col. 5 Lines 41 – 54); (Claim 8)

<u>the user also entering a notification type selection indicating how the user is to be</u>

<u>notified of a refund from the purchase price protection</u> **(Col. 2 Lines 60 – 65 wherein**

the user can log on to the site to receive the notification or wait by having the

host system contact the user using the providing contact information, if any

information was ever provided. That is to say, the system's default is to notify

them through the web site unless another method has been provided);

initiating, by the <u>at least first computer system associated with the</u> first web site,

the purchase price protection offered by the second website as indicated by the user for

the purchased configuration of the product and/or service in response to the user

selecting the button on the user interface **(Col. 2 Lines 14 – 27)**;

determining, by the first web site, a current total purchase price for the purchased

configuration of the product and/or service at the second web site, wherein the

determining includes accessing the second website by the first website and selecting

each configurable component of the purchased configuration of the product and/or

service to identify the current total purchase price the purchased product and/or service

configuration **(Column 2 Lines 19 – 23; see also explanation below regarding total**

price = $\sum$ (price of the components));

determining, by the <u>at least first computer system associated with the</u> first web

site, whether the user is entitled to a purchase price protection refund based on the

current total purchase price at the second web site **(Column 1 Lines 39 – 45; Column**

3 lines 17 – 22); and

the first web site sending directly to the user an indication **(Claim 8)** based on the

notification type selection entered by the use indicating that the user is entitled to the

purchase price protection refund indicating that the purchase price protection refund is

due **(Column 1 Lines 58 – 60; Column 3 Lines 17 – 22)**;

(Claim 15) wherein the transmitter is further for sending a portion of the refund

directly to the user and keeping a remaining portion of the refund as a fee associated

with the user **(Col. 1 Lines 47 – 52, 64 – 67; wherein it would have been obvious to**

one of ordinary skill in the art that the host system is in communication with the

vendors and when a refund becomes available the host system will handle the

making available of the refund to the customer and credit the amount to the

customer's account and wherein it is common sense that business have an

associated fee for carrying out said service).

McClung further discloses, in certain embodiments, an improvement for a

method for generating vendor information including contacting a host system by a

consumer identifying at least one vendor doing business in a pertinent geographic area

and retrieving from the host system information related to the vendor. The improvement

including providing a method to guarantee to the consumer a better price or a best price

on items or services purchased from the vendor for a predetermined time period

following a transaction.

However, **McClung** fails to explicitly disclose:

wherein the configuration of the product and/or service includes a plurality of

configurable components each associated with a different purchase price and wherein

the total purchase price comprises the sum of each component's price; and

whether a consumer performed the purchase at the host system or at the

vendor's web site.

Regarding the configuration of the product and/or service includes a plurality of configurable components each associated with a different purchase price and wherein the total purchase price comprises the sum of each components price the Examiner asserts that one having ordinary skill in the art at the time the invention was made that there are a variety of types of products, including products that are made of various components. For example, it is extremely old and well known that computer system are made of several components, such as video cards, motherboards, processors, hard drives, and etc., and that each computer component has an associated price. In other words, the total price of the computer system is dependent on the price of each component that makes up the computer system.

With that said, it would have also been obvious for one of ordinary skill in the art looking upon the teachings of **McClung's** price guarantee that when determining the current total purchase price for the purchased configuration would include accessing the second website where the product was purchased and searching the current price of each component in order to determine the total price.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention that a product and/or service can include a plurality of configurable components each associated with a different purchase price and wherein the total purchase price comprises the sum of each component's price.

Regarding whether a consumer performed the purchase at the host system or at the vendor's web site, **McClung** fully incorporates the patent application, "Business

System" by **Thakur et al.**, wherein **Thakur** discloses the communication system

between a host system, consumer, and vendor.

   Thakur discloses that a consumer makes an initial inquiry to the host system and

fills out a host system questionnaire. The host system can further keep a record of the

consumer's transactions with each vendor in its database including payments, discounts

refunds, and accounting transactions. As can be seen in **Fig. 1**, the consumer can

perform transactions directly with the vendor and provide any necessary information to

complete the host system questionnaire. The host system is also in communication

with the vendor and the consumer, as well. As a result, it would have been obvious for

a consumer to purchase a product from a vendor, provide the vendor information to the

host system, having the host system search for the vendor within the host system

database, and have the host system be in communication with the vendor in order to

monitor any transactions made between the vendor and the consumer **(See Fig. 1,**

Page 5 – 6 ¶ 57, 61 – 64; Page 7 ¶ 74).

   Therefore, it would have been obvious to one having ordinary skill in the art at

the time of the invention to modify **McClung** in view of the teachings of **Thakur** to

provide a system where a consumer can perform a transaction with a vendor, provide

the vendor information to a host system, and have the host system be in communication

with the vendor in order to monitor any transactions made between the vendor and

consumer in the event that a refund or discount is applicable.

6.   In regards to **claims 2, 9, and 16, McClung** discloses wherein the user interface

at the first web site includes a web page having a list of text fields and identifiers for the

user to enter at least one of the following information associated with a configuration of

a product and/or service that was purchased by the user from the second web site, the

user thereby providing information directly to the first web site **(Column 4 Lines 8 – 30;**

see also explanation given in Response to Arguments):

       a name of the product and/or service;

       a description of the product or service;

       an identifier of the product and/or service;

       a name, address and telephone number of the second web site;

       a date the product and/or service was purchased by the user; and

       a total purchase price the user paid for the product and/or service.

7.   In regards to **claims 4, 11, and 18**, **McClung** discloses wherein the second

determining step comprises the steps of:

       determining a time period of the purchase price protection offered by the second

web site for the purchased configuration of the product and/or service, the current time,

the total purchase price of the product and/or service configuration, and the current total

purchase price of the product and/or service configuration at the second web site

(Column 4 Lines 8 – 30); and

       if the current time is within the time period of the purchase price protection and

the purchase price of the product and/or service configuration is greater than the current

total purchase price at the second web site, then determining that the user is due a

purchase price protection refund **(Column 1 Lines 39 – 45)**; and

otherwise, determining that the user is not due a purchase price protection refund **(obviously included)**.

8.   In regards to **claims 5, 12, and 19**, **McClung** discloses further comprising the step of:

the first web site providing directly to the user with information necessary for redeeming the refund that is due from the purchase price protection offered by the second web site, such that the user may redeem the refund directly from the second web site **(Columns 7 – 8 Lines 47 – 20)**.

9.   In regards to **claims 6 and 13**, **McClung** discloses further comprising the steps of:

the first web site sending directly to the user the entire refund corresponding to the refund due from the purchase price protection offered by the second web site **(Claim 6)**; and

the first web site redeeming from the second web site, on behalf of the user, the refund the user is due from the purchase price protection offered by the second web site **(Col. 1 Lines 47 – 52, 64 – 67; wherein it would have been obvious to one of ordinary skill in the art that the host system is in communication with the vendors and when a refund becomes available the host system will handle the making available of the refund to the customer and credit the amount to the customer's account)**.

10.   In regards to **claims 7 and 14**, **McClung** discloses wherein the first web site and

the second web site are separate e-commerce web sites **(Column 1 Lines 53 – 60;**

Column 2 Lines 14 – 29).

Response to Arguments

11.   Applicant's arguments filed **3/16/2009** have been fully considered but they are

not persuasive.

Response to Argument Section

Regarding Well-Known Statements (Pages 10 – 13)

12.   Applicant continues to argue the Examiner's response regarding the applicant's

failure to properly traverse the Examiner's obvious statements. The applicant argues

that:

> "…a demand of this nature is adequate to traverse the Examiner's
> statements of well-known fact, in which the Examiner is required to and
> has the burden to point to concrete evidence in the record or provide an
> affidavit or declaration setting forth specific factual statements and
> explanation to support the finding."

However, the Examiner asserts that simply demanding for evidentiary proof or

documentation is improper.

> As discussed in the MPEP under 2144.03 (C):

> "To adequately traverse such a finding, an applicant **must
> specifically point out the supposed errors** in the examiner's action,
> which should include **stating why the noticed fact is not considered to
> be common knowledge or well-known in the art**. See 37 CFR
> 1.111(b), see also *Chevenard*, 139 f.2d at 713, 60 USPQ at 241.
> …
> If applicant does not traverse the examiner's assertion of official
> notice or **applicant's traverse is not adequate**, the examiner should
> clearly indicate in the next Office action that the common knowledge or
> well-known in the art statement is taken to be admitted proper art because

applicant either failed to traverse the examiner's assertion of official notice or that the **traverse was inadequate**. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate."

As a result, it was discussed in the prior office action that the applicant has failed to properly provide an **adequate** traversal since the applicant has failed to set forth the specific reasons of why the Examiner's well-known statements were incorrect/improper. Simply stating that they are improper and demanding for evidence/documentation is insufficient since such a traversal provides no reason of why the facts are not well-known.

Regarding McClung not providing a specific quote (Pages 13 – 14)

13.   The Examiner retracts the last statement where the Examiner stated:

> "However, the Examiner would like to make it clear on the record that no such quote was found within McClung and that the statement made above is only the applicant's interpretation/summary of only part of what McClung discloses on Col. 2 Lines 14 - 27 and 53 - 56."

In other words, the Examiner notes that the quote cited by the applicant on Page 13 of 28 of the Remarks received on 3/16/2009 are found in the McClung reference on Column 2 Lines 19 – 24.

Regarding Applicant's Argument of not providing a prima facie case of obviousness (Pages 14 – 18)

14.   As discussed above, the applicant has failed to set forth the reasons of why the Examiner's statements of well-known facts are incorrect.

Moreover, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the

claimed invention where there is some teaching, suggestion, or motivation to do so

found either in the references themselves or in the knowledge generally available to one

of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, the Examiner clearly pointed out that the combination of **McClung**

and Thakur clearly discloses the applicant's invention. Moreover, the Examiner has

also provided sufficient rationale of how the prior art is being applied to the reference in

view of how the claimed invention is being interpreted as.

KSR forecloses the applicant's argument that a specific teaching is required for a

finding of obviousness. KSR, 127 S.Ct. at 1741, 82 USPQ2d at 1396. The above

claims recite combinations which only unite old elements with no change in their

respective functions and which yield predictable results. Thus, the claimed subject

matter likely would have been obvious under KSR.

In addition, neither applicant's Specification nor applicant's arguments present

any evidence that modifying **McClung** with the selected elements of **Thakur** was

uniquely challenging or difficult for one of ordinary skill in the art. Under those

circumstances, the Examiner did not err in holding that it would have been obvious to

one having ordinary skill in the art at the time of the invention was made to modify the

combination of **McClung** with the teachings of **Thakur** to provide a system where a

consumer can perform a transaction with a vendor, provide the vendor information to a

host system, and have the host system be in communication with the vendor in order to

monitor any transactions made between the vendor and consumer in the event that a

refund or discount is applicable. Because this is a case where the improvements are no

more than the predictable use of prior art elements according to their established

functions, no further analysis is required by the Examiner. KSR, 127 S.Ct. at 1740, 82

USPQ2d at 1396.

The Examiner asserts that no limitations of the claimed invention has been

ignored and simply disregarded. The Examiner took all limitations into consideration

and has provided an explanation of how claimed invention is being understood to be

and maintains those views for the reasons stated in this and previous Office Actions.

Rejections under 35 USC 112

15.   Rejections under 35 USC 112, second paragraph, have been withdrawn in view

of the provided amendments.

Rejections under 35 USC 101

16.   Rejection under 35 USC 101 has been maintained for the reasons stated above.

Rejection under 35 USC 103

17.   In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., "configuration of a product") are not recited in the rejected claim(s). Although the

claims are interpreted in light of the specification, limitations from the specification are

not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed.

Cir. 1993).

Specifically, the Examiner asserts that the claim does not call for the actual

configuring of a product, but the inputting information **associated** with a configuration of

a product. Moreover, the Examiner also asserts that, as claimed, the claim also only

calls for receiving information about specifics of a product. In other words, the

Examiner understands that the terms "configuration of a product" are nothing more that

receiving characteristics, specifics, etc. of a product, i.e. product information.

Therefore, the Examiner maintains the rejection that **McClung** does, indeed,

disclose "configuration of a product" since **McClung** discloses receiving product

information, as discussed above.

18.   Applicant argues that **McClung** fails to disclose that a user "enters a type of price

protection offered by the second website."

However, **McClung** discloses that a user using the host system is provided with

refund information regarding a product. Specifically, **McClung** discloses providing sales

and product information, as discussed above. As a result, one having ordinary skill in

the art would have recognized that in order for the consumer to receive any indication of

a refund, discount, or a like and allow for the host system to monitor other vendors the

consumer would have been required to enter pertinent information regarding the

transaction, such as a type of price protection offered by the second website.

Moreover, one of ordinary skill in the art would have also recognized that the

terms "type of price protection" is very broad and that simply providing discounts in the

event that a price of a purchased product was to high a refund would be provided to the

consumer. Another example would also include allowing the consumer to have the

capability of returning a product after x days from when the product was first purchased.

19.   Applicant argues that **McClung** fails to teach or suggest, "accessing the second

website by the first website and selecting each configurable component of the

purchased configuration of the product and/or service to identify the current total

purchase price of the purchased product and/or service configuration."

First, the Examiner notes that the rejection did not state, "price = > (price of the

components)" as cited by the applicant. It is asserted that the rejection stated **"price =**

$\sum$ (price of the components)."

Second, the Examiner asserts that **McClung** does, indeed, disclose the above

limitation. **McClung** discloses:

> "...the vendor (and/or host system or similar system) monitors competitors
> on a real time basis and provides the consumer at the vendor's location
> any better price available then at any competitor for the same item (or
> service)."
> Col. 2 Lines 19 – 23

As a result, and in view of **Thakur** (which was incorporated by reference by

McClung), the prior art does, indeed, monitor other competitors. Although, the provided

citation of **McClung** does not explicitly disclose a second website one having ordinary

skill in the art would have recognized that if the consumer purchased a product online,

such as from www.travelocity.com, www.newegg.com, and any other vendor that has a

website or only offers products through online purchasing, the host system would

monitor the website.

In other words, one having ordinary skill in the art would have recognized that it

would not be uniquely challenging or difficult that monitoring other vendors would

include monitoring their online stores, which are accessible through their websites.

Regarding the newly added limitation of a first computer system, **McClung** discloses that the method is being carried out on a computer system.

20.   Applicant again traverses the Examiner's assertion that, "it would have been obvious to one of ordinary skill in the art that the host system is in communication with the vendors and when a refund becomes available the host system will handle the making available of the refund to the customer and credit the amount to the customer's account and wherein it is common sense that business have an associated fee for carrying out said service."

However, the applicant once again fails to provide an adequate traversal, as discussed above, and, therefore, is considered to be admitted prior art. Moreover, the Examiner further notes that **Claim 15** is a system (apparatus) claim and that the type of data being transmitted, i.e. portion of the refund, is non-functional descriptive subject matter. It is asserted that the type of data fails to further limit any structural elements of the claimed transmitter and, thus, adds little, if anything, to the claim's structure (transmitter). As claimed, the transmitter would still transmit any data that it is instructed regardless of what that data is.

21.   In regards to the applicant's argument found on **Page 25 of 28**, it is unclear to the Examiner on what the applicant is attempting to argue. As best understood by the Examiner, it appears that the applicant is once again providing an improper traversal and, as discussed above, will be considered to be admitted prior art.

Specifically, the applicant has failed to provide sufficient reasons of why it is not obvious that when taking into consideration on the total price of a product one of

ordinary skill in the art would have recognized that price of each component that makes

up the product must be considered and taken into account in order to arrive at the

product true total price.

For example, when setting the price of a computer system the computer

company must take into account on how much each part that makes up the computer

cost. In other words, the total price of the computer is equal to the price of the

motherboard, processor, hard drive, video card, keyboard, monitor, and etc..

Therefore, the rejection is maintained and considered to be admitted prior art

because the applicant has once again failed to state why the rationale provided above is

incorrect.

22.   In response to applicant's argument that **Thakur** was used to teach a host

system that performs the method of **McClung** and that the Examiner mainly relied on

McClung on providing the "well-known" statements, the fact that applicant has

recognized another advantage which would flow naturally from following the suggestion

of the prior art cannot be the basis for patentability when the differences would

otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter.

1985).

The Examiner has provided clear and detailed reasons in this and previous

Office Actions on why the provided prior art was used, the application of each prior art,

and how they are being applied to the claimed invention.

23.   All rejections made towards the dependent claims are maintained due to the lack

of a reply by the applicant in regards to distinctly and specifically point out the supposed

errors in the Examiner's action in the prior Office Action (37 CFR 1.111). The Examiner

asserts that the applicant only argues that the dependent claims should be allowable

because the independent claims are unobvious and patentable over **McClung** in view of

Thakur.

Conclusion

24.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Gerardo Araque Jr. whose telephone number is

(571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM -

4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. A./
Examiner, Art Unit 3689
7/16/09

/Dennis Ruhl/
Primary Examiner, Art Unit 3689